MUNICIPAL CORPORATIONS — PATENTED PAVEMENT — COMPETITION.—The charter of defendant city authorized the board of public works to let contracts for public improvements to the "lowest and best bidder." The board advertised for bids for paving one of the public streets of the city with a patented pavement, in the specifications calling the attention of the bidders to the fact that the right to lay such pavement would be sold to competent contractors at a fixed price by the owner of the patent. Plaintiff, a property owner and resident on said street brings this suit to enjoin the city from letting the contract on the ground that a patented pavement was specified and this created a monopoly and made competition impossible. *Held,* (two judges dissenting) that the city should be enjoined from letting the contract. *Monaghan* v. *City of Indianapolis* (1905), — Ind. App. —, 75 N. E. Rep. 33.

Where statutes confer on municipalities the power to impose a burden on private property requiring the taking of certain steps, in their nature jurisdictional, precedent to the right to impose such burden, the municipality has only such power as the statute grants it and must comply strictly with the provisions of the statute in exercising such power. *City of Bluffton* v. *Miller,* 33 Ind. App. 521, 70 N. E. 989; *Barber Paving Co.* v. *Edgerton,* 125 Ind. 461, 25 N. E. 436. Provisions in the charter requiring competitive bidding are for the benefit of lot owners and the city has no power to waive or ignore them. *Fineran* v. *Bithulithic Co.,* 116 Ky. 495, 76 S. W. 415. The courts do not agree on the main proposition affirmed in the principal case that there can be no competition in bidding when the article specified is patented, however the weight of authority sustains this view. *Dean* v. *Charlton,* 23 Wis. 590, 99 Am. Dec. 205; *Nicholson Pavement Co.* v. *Painter,* 35 Cal. 699; *Smith* v. *Syracuse Improvement Co.,* 161 N. Y. 484, 55 N. E. 1077; *Kean* v. *City of Elizabeth,* 35 N. J. L. 351; *Burgess* v. *City of Jefferson,* 21 La. Ann. 143; *Barber Asphalt Paving Co.* v. *Wilcox,* 86 N. Y. Supp. 69; DILLON, MUNICIPAL CORPORATIONS, 4th Edition, § 467. There are, however, many strong opinions to the contrary, which affirm the right of a city to advertise for bids for a patented pavement though the charter specifies that contracts for public improvements shall be let to the lowest bidder. *Hobart* v. *City of Detroit,* 17 Mich. 246; *In re Dugo,* 50 N. Y. 513; *Swife* v. *St. Louis,* 79 S. W. 172; *Verdin* v. *City of St. Louis,* 27 S. W. 447.

NEGLIGENCE—BUILIDING MATERIALS IN STREET—PLACES ATTRACTIVE TO CHILDREN.—Plaintiff's infant child, between four and five years of age, was injured while playing on some iron girders piled on the street by the defendants in front of a factory which they were engaged in repairing. The girders were piled in a negligent manner. *Held,* that the defendants owed no duty to the child who was a mere trespasser. *Friedman* v. *Snare & Triest Co.* (1905), — N. J. —, 61 Atl. Rep. 401.

Two judges dissented and the decided weight of authority seems to be against the holding of the majority. In order to arrive at its conclusion, the court found it necessary to repudiate *Lynch* v. *Nurdin,* 1 Q. B. (Ad. & El. N. S.) 29, 41 E. C. L. 422, the leading English case in point. The Massachusetts court, and the New Jersey court in the present case, are the only tribunals in this country which have not confirmed *Lynch* v. *Nurdin.* BEACH.

CON. NEG. § 141; *Edgington* v. *Burlington &c. Ry. Co.*, 116 Ia. 410. The case of *Hughes* v. *Macfie* (1863), 2 H. & C. 744, 33 L. J. Exch. 177, much relied upon by the court is not in point, the opinion of POLLOCK (C. B.) being based on the contributory negligence of the plaintiff. In the principal case, the doctrine of contributory negligence is not invoked. *Mangan* v. *Atterton* (1866), L. R. 1 Exch. 259, 4 H. & C. 388, 35 L. J. Exch. 161, which supports the present case was virtually overruled by *Clark* v. *Chambers*, 3 Q. B. Div. 327. "Nothing worse than this [*Mangan* v. *Atterton*] as a specimen of judicial reasoning can be found in the reports." BEACH, CON. NEG. § 139. The doctrine of the turntable cases would seem to be applicable: Where a child of tender years is injured, while playing on a turntable, through the negligence of the owners, by the great weight of authority the company is liable, even though the child was a trespasser. *Sioux City &c. R. Co.* v. *Stout*, 17 Wall (U. S.) 657; *Edgington* v. *Burlington &c. Ry. Co.* (above). (See also 29 Am. & Eng. Encyc. of Law — 2nd. Ed. — p. 32 for other cases). An abutting owner placing materials upon the public highway in front of his premises is bound to exercise reasonable care to prevent injury therefrom to children of tender years. *Rachmel* v. *Clark*, 205 Pa. St. 314, 54 Atl. 1027; *Powers* v. *Harlow*, 53 Mich. 507, 19 N. W. 257, 51 Am. Rep. 154; *Birge* v. *Gardiner*, 19 Conn. 507 (50 Am. Dec. 261); *Price* v. *Water Co.*, 58 Kan. 551 (50 Pac. Rep. 450, 62 Am. St. Rep. 625); *Bramson's Adm'r* v. *Lobert*, 81 Ky. 638.

NEGLIGENCE—CHILDREN—IMPUTED NEGLIGENCE.—Plaintiff's two sons—Hjalmar, for whose benefit this action is prosecuted, and a younger brother—each under 9 years of age, found, on the premises of defendant, a stick of dynamite, which they exploded, instantly killing the younger and permanently maiming and injuring the other. The jury found that the defendant company was guilty of negligence in permitting the dynamite to remain on or about its premises unguarded or unprotected. *Held*, that, conceding the contributory negligence of the children's father (a point which was in dispute) the plaintiff could recover. *Mattson* v. *Minnesota & N. W. R. Co.* (1905), — Minn. —, 104 N. W. Rep. 443.

This case overrules the previous one of *Fitzgerald* v. *The Railway Company*, 29 Minn. 336, 13 N. W. 168, 43 Am. Rep. 212. The leading case of *Hartfield* v. *Roper*, 21 Wend. (N. Y.) 615, 34 Am. Dec. 273, which holds that the negligence of the parent is imputable to the child, was relied on in *Fitzgerald* v. *The Railway Company*, and is followed in some jurisdictions. *Terre Haute St. Ry. Co.* v. *Tappenbeck*, 9. Ind. App. 422; *Casey* v. *Smith*, 152 Mass. 294, 23 Am. St. Rep. 842; *O'Brien* v. *McGlinchy*, 68 Me. 552; *Canavan* v. *Stuyvesant et al.*, 12 Misc. Rep. (N. Y. C. Pl.) 74. However, the principal case seems to be in accordance both with the weight of authority and reason. *Berry* v. *Lake Erie & W. R. Co.*, 70 Fed. Rep. 679; *Daley* v. *Norwich etc. R. Co.*, 26 Conn. 591, 68 Am. Dec. 413; *Wymore* v. *Mahaska County*, 78 Iowa 396; *Battshil* v. *Humphreys*, 64 Mich. 514, 31 N. W. 894, 28 Am. & Eng. R. Cs. 597, 57 Am. Rep. 474 (note); *Erie City Pass. R. Co.* v. *Schuster*, 113 Pa. St. 412, 57 Am. Rep. 471. BISHOP, NON-CONTRACT LAW, § 582; BEACH, CON. NEG. (3rd Ed.) § 127, *et seq;* JAGGARD, TORTS, p. 984.